

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION**

UNITED STATES OF AMERICA                          )  
                                                          )  
                                                          )  
v.                                                        ) NO. MO-07-CR-119(8)  
                                                          )  
                                                          )  
CRYSTAL MUNOZ                                      )

**GOVERNMENT'S MOTION TO AMEND INDICTMENT  
TO CORRECT FORM AS TO DEFENDANT CRYSTAL MUNOZ**

TO THE HONORABLE JUDGE OF SAID COURT:

1. The United States of America, by and through its undersigned counsel, hereby asks the Court to change the Indictment in the above-referenced case to add two words and thereby correct the language in subpart "A" of Count One of the Indictment as it pertains to defendant Crystal Munoz.<sup>1</sup>
2. The subpart reads, "1,000 kilograms or more of a mixture or substance containing a detectable marihuana, a Schedule I Controlled Substance." It should read, "...detectable *amount* of marihuana...," and the government requests that the Court add the words "*amount of*" to this sentence in the appropriate place. (Emphasis added to reflect which words should be changed in the Indictment).
2. The error made was merely clerical. Indictments can be corrected via amendment, as long as the corrections pertain to form, not substance. *United States v. Janoe*, 720 F.2d 1156,

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<sup>1</sup>All nine other defendants have pled guilty to Count One previously, either to the subpart alleging marihuana, cocaine, and/or cocaine base, or some combination thereof.

1160 (10th Cir. 1983) (collecting cases), *cert. denied*, 104 S.Ct. 1310 (1984). Amendment of form and not of substance, does not require re-submission of the Indictment to the grand jury. *United States v. Slovacek*, 867 F.2d 842, (5<sup>th</sup> Cir. 1989).

3. The correction of a mere clerical error by formally superseding the indictment would be an unnecessary waste of judicial resources.
4. Mr. Dan Wade, counsel for defendant Munoz, was contacted and does not oppose this motion.

WHEREFORE, PREMISES CONSIDERED, the government requests that the Court ORDER the Clerk to add the words requested above to Count One, subpart A, of the indictment as it pertains to this defendant.

RESPECTFULLY SUBMITTED,

JOHNNY SUTTON  
UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

By signing above, I hereby certify that on October 4, 2007, I filed this document with the Clerk using the CM/ECF filing system, which will cause a copy of the document to be delivered to counsel for defendant, Mr. Dan Wade.

**IN THE UNITED STATES DISTRICT COURT  
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**UNITED STATES OF AMERICA** )  
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v.                              ) NO. MO-07-CR-119(8)  
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                                  )  
**CRYSTAL MUNOZ**            )

**ORDER CORRECTING INDICTMENT AS TO DEFENDANT MUNOZ**

On this day the Court considered the Government's *Motion to Amend Indictment to Correct Form*, and, finding the Motion meritorious, ORDERS that the Clerk add the words "amount of" to Count One, subpart A of the Indictment, as it pertains to Defendant Crystal Munoz, so that subpart A reads as follows:

"1,000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, a Schedule I Controlled Substance,"

The Clerk may proceed by interlineation if necessary. It is SO ORDERED.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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ROBERT JUNELL  
UNITED STATES DISTRICT JUDGE